

Edwards, Evans of B., Evans of A., Evans of P., Hardeman of N., Hood, Lane, Lawson, Maverick, Palmer, Patrick, Rains, Runnels, Russell, Scott, Sims, Speights, Tarrant and Titus—24.

NAYS—Messrs. Browder, Charlton, Coles, Daggett, Doom, Dunlap, Flanagan, Hamilton, Hartley, Hardeman of C., Jowers, Lott, Mabry, Neighbors, Pollock, Randolph, Reid, Rossy, Rowe, Stapp, Taylor of F., Taylor of H., Thomson, Throckmorton, Turner, White and Wren—27.

So the motion was lost.

On motion, the bill was then referred to the committee on Private Land Claims, No. 1.

A bill for the relief of Reuben Vest, assignee of Thomas Hughes; read second time and referred to the committee on Private Land Claims, No. 2.

A bill for the relief of Joseph Bays; read second time and referred to the committee on Private Land Claims, No. 1.

A bill granting lands to certain citizens of the State of Texas; read second time and referred to the committee on Public Lands.

A bill to authorize J. P. Hollingsworth and his associates to construct a bridge across the Sabine river; read second time and referred to the committee on Internal Improvements.

A bill to create the county of Madison; read second time and ordered to be engrossed.

A bill for the relief of William Smith or his assignee, for provisions furnished the army of the Republic of Texas; read second time and referred to the committee on Claims and Accounts.

There being no further business on the Speaker's table, on motion, the House adjourned until 10 o'clock A. M. to-morrow.

AUSTIN, Tuesday, January 18, 1853.

House met pursuant to adjournment—roll called—quorum present.

Absentees—Messrs. Bee, Bryan of C., Evans of B., Evans of A., Fields, Howard, Johnson, Lane, Maverick, McDade, McFarland, Neal, Palmer, Scott, Tarver, Taylor of H. and Westmoreland.

Journal of yesterday read and adopted.

On motion of Mr. Tarrant, Mr. McDade was excused from attendance on the House to-day, on account of indisposition.

PETITIONS.

Mr. Crockett presented the petitions of Ben. Frank. Walker and Elizabeth A. R. Shaham, praying relief; referred to the committee on Private Land Claims, No. 1.

Mr. Hardeman of Caldwell presented the petition of Noah Smithwick, praying relief; referred to the committee on Private Land Claims, No. 2.

Mr. Throckmorton presented the petition of the heirs of Jesse Watson, praying relief; referred to the committee on Private Land Claims, No. 1.

Mr. Throckmorton presented the petition of sundry citizens of Collin and Kaufman counties, praying the creation of a new county; referred to the committee on County Boundaries.

Mr. Stewart presented the petition of Matthew Cartwright, praying relief; referred to the committee on Private Land Claims, No. 1.

Mr. Stewart presented the petition of _____ praying the privilege to bridge and causeway San Jacinto Great Swamp; referred to the committee on Internal Improvements.

REPORTS OF STANDING COMMITTEES.

COMMITTEE ROOM, January 18, 1853.

To the Hon. D. C. DICKSON,

Speaker of the House of Representatives:

Your committee, to whom was referred a bill to be entitled an act to authorize the Clerk of the District Court of Houston county to transcribe certain records, have examined the same, and have instructed me to report the same back to the House, and recommend its passage with the following amendments:

1st—Fill the blank with the letter "A."

2nd—Add at the end of first section, the words, "and all certified copies taken from the same shall be as valid, and have the same force and effect as if taken from the original."

C. H. RANDOLPH,

One of the committee.

Report and bill received to come up among the orders of the day.

COMMITTEE ROOM, January 18, 1853.

To the Hon. D. C. DICKSON,

Speaker of the House of Representatives:

Your committee on State Affairs, to whom a bill has been referred for the purpose of extending the time to persons for the

payment of taxes and the restoration of lands, have had the same under consideration, and finding the bill in accordance with previous legislation, and believing it to be good policy, they recommend the passage of the accompanying bill.

J. W. FLANAGAN, Chairman.

Report and bill received to come up among the orders of the day.

COMMITTEE ROOM, January 18, 1852.

To the Hon. D. C. DICKSON,

Speaker of the House of Representatives :

Your committee on Education, to whom was referred a bill to be entitled an act to incorporate the Alma Institute, have duly examined the same, and beg leave to report it back to the House and recommend its passage.

They have also considered a bill to incorporate Concord University of Rusk county, and recommend its passage.

WILLIAM C. EDWARDS,

Chairman, pro. tem.

Report received to come among the orders of the day.

COMMITTEE ROOM, January 18, 1853.

To the Hon. D. C. DICKSON,

Speaker of the House of Representatives :

Your committee, No. 2, on Private Land Claims, beg leave to report and recommend the accompanying bill to the favorable consideration of the House ; and they take occasion herein to state, that they have devoted much time to the examination of the various claims in said bill, and after satisfactory investigation of the same from the many vouchers legally presented, and from the statements made by different gentlemen as to the credibility of some of the witnesses, we are satisfied of the equity of the claims, and to save time and expense, have deemed it advisable to report the bill as presented.

All of which is respectfully submitted.

N. B. CHARLTON, Chairman.

Report and bill received to come up among the orders of the day.

COMMITTEE ROOM, January 18, 1853.

To the Hon. D. C. DICKSON,

Speaker of the House of Representatives :

The committee to whom was referred a bill to be entitled an act concerning security for costs, beg leave to report said bill

back to the House with the recommendation that said bill be rejected.

Very respectfully,

A. J. HOOD,

One of the committee.

Report received to come up among the orders of the day.

COMMITTEE ROOM, January 18, 1853.

To the Hon. D. C. DICKSON,

Speaker of the House of Representatives :

The Judiciary committee, to whom was referred a joint resolution to amend the State Constitution by striking out the 27th section of the 3rd article, have had the same under consideration, and have instructed me to report the same back to the House and recommend its adoption.

A. J. HAMILTON, One of the Committee.

Report received to come up among the orders of the day.

COMMITTEE ROOM, January 18, 1853.

To the Hon. D. C. DICKSON,

Speaker of the House of Representatives :

The Judiciary committee, having met in Committee Room on the 17th instant, at 7 o'clock, P. M., proceeded, there being a quorum present, to the investigation of the matters submitted to said committee—whereupon, the petition of Joseph F. Smith, citizen of Victoria, praying to be reinstated in the practice of the law as an attorney and counsellor at law, from which he had been stricken by a rule of the District Court of Travis county; and that said committee, having the said petition in favorable consideration, beg leave to report the following bill for his relief, and recommend its passage.

GEO. M. REID, One of the committee.

COMMITTEE ROOM, January 18, 1853.

To the Hon. D. C. DICKSON,

Speaker of the House of Representatives :

The committee on the Land Office, to whom was referred a bill to be entitled an act to limit the Boards of Land Commissioners, and more clearly to define their duties, have duly considered the same, and have unanimously instructed me to report the same to the House without amendment, and recommend its passage.

All of which is respectfully submitted.

D. M. STAPP, Chairman.

COMMITTEE ROOM, January 18, 1853.

To the Hon. D. C. DICKSON,

Speaker of the House of Representatives:

The committee on Engrossed Bills, have examined a bill entitled an act to create the county of Madison, and respectfully report that the same has been correctly engrossed.

A. J. HOOD, Chairman.

COMMITTEE ROOM, January 17, 1853.

To Hon. D. C. DICKSON, Speaker, &c.,

Your committee on Military Affairs, to whom was referred that portion of the Governor's Message which relates to the volunteers called by him into the service of the State, during the past summer, have had the same under consideration, and beg leave to report: that after a careful and rigid examination of the facts and circumstances which induced the action of the Executive in this matter, they feel it due alike to truth and to His Excellency, to express their unqualified approbation of the course pursued by him, and to commend the promptness with which his measures were adopted, and the energy with which their details were carried out.

The fact that a large portion of the frontier of our State, was exposed to repeated and aggravated outrages, from savage Indians, and lawless, and predatory bands, from a neighboring nation, is susceptible of proof, so indisputable, that we are not permitted to doubt. That their outrages and depredations were committed, and continued, under circumstances of increasing aggravation, and enormity, until the common avocations of life, among a pastoral and agricultural people, could not be pursued except at the most imminent peril of their safety, and their property, and the fruits of their labor were at the mercy of an enemy, implacable and unsparing, is a truth which the unfortunate and neglected inhabitants of that frontier home long and bitterly realized, and which the most skeptical cannot doubt. Whatever might have been the opinion of your committee, or any of its individual members at the opening of this investigation, and examination of the proofs laid before them, renders it impossible to resist the conviction, that the situation of the inhabitants of the Valley of the Rio Grande, demanded such an interposition on the part of the Governor, and entitles them to the sympathy of their more fortunate fellow citizens of the State.

To recapitulate the specific acts of enormity and blood which have been perpetrated upon them, and which make up the melan-

choly aggregate of their wrongs, would be in the opinion of your committee, an unnecessary and painful infliction upon this body. It is deemed sufficient for them to say, that in no possible view of the question, can the faintest shade of doubt rest upon the authenticity of the representations made to the Executive by these afflicted people. If an interval of peace and repose was allowed them, it was only to seduce them from their vigilance, and make more certain an assurance of blood and plunder.

A state of continual danger is less trying to a people, less fatal to the prosperity and improvement of a country, than a State of continual insecurity and alarm. All that is trying and depressing in either, has been visited upon these people.

Such being the condition of affairs on the Rio Grande, it would be, your committee conceive, a vain and useless thing for them to endeavor to prove that this frontier was without efficient protection, and that they needed it, when this call was made. The mere presence of a military force in the midst of a people is not protection, unless it be adapted in its character and appointments to encounter and punish, if necessary, those by whom its peace is endangered; it would be just as reasonable to rely upon cannon without shot, or muskets, without a finger to pull the trigger, as upon a force, however great, deficient in the essentials of efficiency. In the absence of adaptability alone, are we authorized to find a reason for the lamentable failure of the Federal troops to render protection, even to the settlements, in the vicinity of their posts, for we will not attempt to overrule the whole history of the past, by withholding from them their just right to be regarded as brave, as patriotic, and as humane as any army on the globe. And not the least of the evils of the military policy of the General Government upon this frontier, is the false position in which it places these gallant and meritorious men, a position calculated to wound the feelings of the man, and the pride of the soldier. It is not "the pomp and circumstance of war" which is needed to defend our frontier against Indian warfare and pillage, nor will skill and bravery, the most consummate, be more than idly expended in such a contest. A more striking illustration of this truth cannot be found in the annals of the past, than is furnished by the history of the system of military defence adopted on this frontier. When brought in conflict with the Indians on our borders, who move universally on horseback, and with great celerity, it cannot be matter of surprise, that infantry troops are unable to cope with them; and this arm of the service, even when mounted temporarily, is little improved for such a purpose, their unskillfulness in

horsemanship exposing them to the danger of breaking their necks before they were in reach of the arrow of the Indian. Can your honorable body conceive of any thing more absurd than starting in pursuit of the flying Comanche in a wagon drawn by mules, yet, such your committee are well assured has been done. This fact is pregnant with meaning, and is itself a ready solution of the inefficiency of this sort of protection, if it be not a misapplication of terms to call it so. For these and many reasons which might be enumerated, your committee have no hesitation in adopting the opinion that the protection afforded by the General Government has been but a mockery, calculated by its demonstration of power and efficiency to allure the incautions and confiding settler into a danger from which it is powerless to defend him.

In this condition was the frontier on the Rio Grande, when the Governor called into the service of the State three companies, respectively, under the command of Captains Shaw, Lewis and Davis, to serve for the period of six months, which were promptly mustered in, and by the aid of some liberal and patriotic citizens, were placed in condition to render effective service, by which, quiet and entire tranquillity has been restored. Had the Executive failed to have acted thus, he would in the opinion of your committee have been recreant to his country, his duty, and the common sentiment of humanity.

Your committee, while they do not regard it as important to investigate the question of constitutional power, and legal authority involved in the act of the Executive under consideration, do not in this view hesitate to sustain him. The protection of the lives and property of the citizens of a State, against violence and wrong, is an obligation which arises out of the very nature of all political associations, and exists as a social necessity which may look to the written law for aid, but not for existence. But in this instance, it is not conceived that the Governor acted without the express authority of laws. The fourth section of the sixth article of the Constitution confers upon the Executive the right to call out the militia to suppress insurrection, and repel invasion, and the 23d section of the militia law, Hartley's Dig., page 760, declares "that in case of actual invasion or insurrection or an invasion threatened, or premeditated against the State, or any part thereof, it shall be lawful for the Governor or any officer by him directed, to order into actual service, all or any portion of the militia, as the emergency may require, and to discharge such troops as soon as he may judge, consistent with the interests of the State." The sole question then involved in

the matter, simply is, was there any insurrection or invasion in that part of the State in which these companies were called to operate. This we have already discussed, and we think sufficiently established, and though the State of affairs in that quarter may not conform in technical strictness to the definition of war, insurrection or invasion, laid down in Grotius, Vattel, or Puffendorf, yet it would, in the opinion of your committee, require a degree of acuteness possessed by few, to detect in it the elements of any known definition of peace.

It is therefore the opinion of your committee, that the call made by the Governor was a proper exercise of discretion, and the duty now devolves upon the Legislature, of doing their part by making the necessary appropriation to defray the expenses incurred by this measure. The manner of organizing this force has been in all attainable conformity with that required in cases where troops are mustered into the service of the United States, which will render the process of obtaining reimbursement from the General Government, more simple than in former cases.

That such re-imbursement will be made, we have no reason to doubt, for no instance has occurred in the history of the Government where money thus expended has not been paid back. Estimates have been submitted by the Adjutant General, exhibiting the amounts necessary to discharge the liabilities incurred in his behalf, which have been examined by a disbursing officer of the United States army, and pronounced correct in form and substance. To carry out these views, your committee have the honor to submit to your honorable body the accompanying bill, to defray the expenses of the troops, and also a joint resolution for the procurement of the re-imbursement of the State, by the United States.

E. H. TARRANT, Chairman.

BILLS AND RESOLUTIONS.

Mr. Edwards introduced a bill appropriating five thousand dollars to pay the contingent expenses of both Houses of the Legislature; read first time.

Mr. Edwards introduced a bill for the relief of the heirs of John Tanner; read first time.

Mr. Crockett introduced a bill for the relief of John N. Bryan; read first time.

Mr. Patrick introduced a bill to determine what lands may have been forfeited; read first time.

Mr. Throckmorton introduced a bill to create the county of Young, and to define the manner of organizing the same; read first time.

Mr. Lott introduced a bill for the relief of Robert Bartlett; read first time.

Mr. Lott introduced a bill to change the name of Absalom Edwards to that of Absalom Hester; read first time.

Mr. Scott introduced a bill for the relief of Francis Moore, Jr.; read first time.

Mr. Flanagan introduced a bill for the relief of William Howith, assignee of William Butler; read first time.

Mr. Hamilton introduced a bill to prescribe the time of holding the District Courts in the Second Judicial District of the State of Texas; read first time.

Mr. Dunlap introduced a joint resolution instructing our Representatives in Congress to call the attention of the United States Government to the necessity of a certain treaty with the Republic of Mexico; read first time.

Mr. Evans of Bexar introduced a joint resolution concerning the public archives of Bexar county; read first time.

Mr. White offered the following resolution, which was adopted:

Resolved, That the Finance committee be instructed to enquire into the expediency of levying and collecting a direct income tax upon each and every establishment retailing ardent spirits, and report by bill or otherwise.

Mr. Hamilton introduced a bill to authorize the issuance of duplicate certificates of the Auditor and Comptroller of the State of Texas; read first time.

Mr. Hamilton introduced a bill for the relief of John Burleson; read first time.

The committee on Apportionment, by leave, made the following report:

COMMITTEE ROOM, January 18, 1853.

To the Hon. D. C. DICKSON,

Speaker of the House of Representatives:

A majority of the committee on Apportionment, to whom was referred a bill apportioning the Senators and Representatives amongst the several counties and Districts of the State according to the requirements of the constitution, direct me, in performance of that duty, to report the accompanying bill to the favorable consideration of the House, and ask to be discharged.

H. R. RUNNELS, Chairman.

On motion of Mr. Runnels, the rule regulating the general order of business was suspended, and on further motion of Mr.

Hartley, one hundred copies ordered to be printed, and the bill made the special order of the day for Thursday next at 11 o'clock, A. M.

On motion, the House proceeded to dispose of the business on the Speaker's table, and the

ORDERS OF THE DAY.

A bill concerning lands in Austin's second colony and the colony of Austin and Williams; read a third time and passed.

A bill to create the county of Madison; read a third time and passed.

COMMITTEE ROOM, January 18, 1853.

Hon. D. C. DICKSON,

Speaker of the House of Representatives:

The committee on Engrossed bills beg leave to report that they have examined a bill to be entitled an act to authorize the county court of Comal to levy and collect a special tax; a bill supplementary to an act entitled an act to establish and incorporate the Marshall University, and to change the name thereof to Van Zandt College; also, a bill repealing the second section of an act passed on the 10th day of February, 1852, changing the names of Antoinette Scott and Sidney Way to that of Devereaux, and find the same correctly engrossed. Respectfully submitted.

J. W. FLANAGAN,

One of the committee.

Report accepted.

A bill to establish the New Orleans, Texas and Pacific Railway Company, for the extension of the New Orleans, Algiers, and Opelousas railway through Texas; read second time and referred to the committee on Internal Improvements.

Mr. Hartley, by leave, presented the petition of William C. Lacy, Thomas P. Anderson, R. A. Harris and William M. Tuck, praying a railroad charter from Galveston via Houston to Henderson; referred to the committee on Internal Improvements.

Mr. Hartley in the Chair.

A bill for the relief of Patrick May; read second time and referred to the committee on Private Land Claims, No. 2.

A bill for the relief of the heirs of George Creath, deceased; read second time and referred to the committee on Private Land Claims, No. 2.

A bill for the relief of C. H. Buchner; read second time and referred to the committee on Public Lands.

A bill supplementary to an act authorizing the issuing of duplicate land warrants, discharges and headrights on certain conditions, and providing for the loss of land scrip; read second time and referred to the committee on Public Lands.

A bill for the relief of D. L. Ray and John Anderson; read second time and referred to the committee on Private Land Claims, No. 2.

A bill changing the name of Rachel F. Jackson to Rachel F. Crittenden; read second time and referred to the committee on State Affairs.

A bill to amend an act ceating the county of Hidalgo; read second time and referred to the committee on County Boundaries.

A joint resolution for the relief of Lasa McKenzie; read second time and referred to the committee on Private Land Claims, No. 2.

A bill making appropriation for the per diem pay and mileage of the members and officers of the second session of the Fourth Legislature of the State of Texas, convened in extraordinary session on the 10th January, 1853; read second time and referred to the committee on Finance.

A bill to authorize the erection of certain machinery on the commons in the city of Austin; read second time and referred to the committee on Public Lands.

A joint resolution to amend the constitution for the purpose of caling a convention; read second time and referred to the Judiciary committee.

A bill for the relief of the heirs of Mrs. Elizabeth Jones, deceased; read second time and referred to the committee on Private Land Claims, No. 1.

A bill creating the Fourteenth Judicial District; read second time and referred to the Judiciary committee.

A bill for the purpose of declaring what lands are forfeited in the State of Texas; read second time and referred to the Judiciary committee.

A bill for the relief of Robert Fry and Lodovick Fry; read second time and referred to the committee on Claims and Accounts.

A bill supplementary to an act, granting to settlers on public domain, pre-emption privileges; read second time and referred to the committee on Public Lands.

A bill to incorporate the town of Mount Vernon in Titus county; read second time and referred to the committee on County Boundaries.

A bill supplementary to an act relating to lands in Peters' Colony; read second time and referred to the select committee on Affairs in Peters' Colony.

A bill for the relief of the inhabitants of San Elizario, El Paso county; read second time and referred to the committee on Public Lands.

A bill for the relief of William R. Willis; read second time and referred to the committee on Private Land Claims, No. 2.

A bill for the relief of William Forbes; read second time and referred to the committee on Private Land Claims, No. 2.

A bill to amend an act entitled an act to incorporate the Henderson and Burkville railroad company; read second time and referred to the committee on Internal Improvements.

A bill to incorporate Anson Lodge, No. 29, I. O. O. F.; read second time and referred to the Judiciary committee.

A bill to facilitate the settlement of the fiscal affairs of the late Republic of Texas; read second time and referred to the committee on Finance.

A bill explanatory of an act entitled an act for the relief of certain persons formerly prisoners of war in Mexico, approved February 9, 1850; read second time and referred to the committee on Public Debt.

A bill amending an act relinquishing the title of the State to lots on Galveston Island, approved February 16, 1852; read second time and referred to the committee on State Affairs.

A bill for the relief of Charles A. Warfield; read second time and referred to the committee on Private Land Claims, No. 1.

A bill granting the use of certain portions of the bay to the Galveston Dry Dock company; read second time and referred to the committee on State Affairs.

There being no further business on the Speaker's table, on motion, the House adjourned until half past 9 o'clock A. M. tomorrow.

AUSTIN, Wednesday, January 19, 1853.

House met pursuant to adjournment--roll called--quorum present.

Absentees: Messrs. Bee, Fields, Hartley, Howard, Johnson, McFarland, Neal, Palmer, Rowe, Stewart, Taylor of H. and Wren.